



BULLETIN

Court adopts rule amendments

The following amendments to the Nebraska Workers' Compensation Court's Rules of Procedure were adopted at a public hearing on May 12, 2004:

1. A revised medical fee schedule was adopted including 2004 AMA CPT codes, descriptions, guidelines, and subsection notes, 2004 ASA relative values, 2004 CMS RBRVS relative value units, and recalculated conversion factors for the following: evaluation and management; anesthesia; pathology and laboratory; and physical medicine. The judges declined to adjust the existing conversion factors pertaining to surgery, orthopedic surgery, radiology, and medicine.
2. Rule 26, Medical Fee Schedule, was amended to adopt the revised Schedule of Medical and Hospital Fees with an effective date of July 1, 2004.
3. Rule 30, Subsequent Report, was amended to provide for mandatory electronic filing of subsequent reports filed by or on behalf of an insurer, risk management pool, or self insured employer beginning no later than October 1, 2004. In the alternative, an implementation plan shall be approved by the court no later than October 1, 2004.
4. Rule 36, Eligibility and Approval of Vocational Rehabilitation Services, was amended to eliminate a presump-

Nebraska Workers' Compensation Court
State Capitol Building, Lincoln, NE 68509
800-599-5155 or 402-471-6468
<http://www.nol.org/workcomp/>



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NWCC administrative staff relocation set for August 16, 2004

Effective August 16, 2004, the Nebraska Workers' Compensation Court administrative personnel at the 525 Building (525 South 13th Street), will be relocated to the TierOne Center, 4th Floor, 1221 "N" Street, Lincoln, Nebraska. Office phone numbers will remain the same. The judges, clerk of the court, and litigation support staff at the State Capitol Building will remain at that location.

- **Mail:** All mail, including certified, registered, and express mail should continue to be addressed to the court's post office box: Nebraska Workers' Compensation Court, P.O. Box 98908, Lincoln, NE 68509-8908.
- **Deliveries:** When a physical location address is required for the TierOne Center (FedX, UPS, deliveries, etc.), please use: Nebraska Workers' Compensation Court, 1221 "N" Street, 4th Floor, Lincoln, NE, 68508.
- **Filings (By Mail):** All filings by mail should continue to be addressed to: Nebraska Workers' Compensation Court, P.O. Box 98908, Lincoln, NE 68509-8908.
- **Filings (In Person):** 13th Floor, State Capitol.
- **Hearings:** The relocation is not anticipated to affect hearings, which take place at the court's State Capitol offices.

For more information, please call the court's toll-free information line at 800-599-5155 or 402-471-6468. Also, please check the court's website at <http://www.nol.org/workcomp/> for future updates.



Summary of legislative bills

Listed below is the only bill passed during the last legislative session, other than appropriations bills, that relates to the workers' compensation system. The court's main bill, LB 198, was named a Business and Labor Committee priority bill but did not advance beyond general file. LB 198 would have created an enforcement mechanism for the various administrative responsibilities established for the court in the Workers' Compensation Act. Examples include unfair claims practices and uninsured employer penalties. In addition, LB 198 would have clarified who is responsible for the various nonjudicial/nonlitigation functions under the Act, and drawn a clearer line between the judicial and administrative sides of the court.

Also listed below are two other bills that were passed relating to the judiciary and state government. Copies of any of these bills may be obtained from the Unicameral's Web site (<http://www.unicam.state.ne.us>).

Bills related to workers' compensation

LB 1091: Workers' Compensation Trust Fund. Section 48-162.02 was amended to allow the Fund to make legislative fund transfers to the Compensation Court Cash Fund for the purpose of paying salaries, other benefits, and administrative expenses of the court relating to the Workers' Compensation Trust Fund.

Effective date, April 14, 2004

Bills related to the judiciary

LB 1097: Judges' Retirement Plan. Provides a benefit for surviving spouses of judges. The surviving spouse of a judge who dies subsequent to retirement would receive 50 percent of the judge's benefit if the judge was not more than five years older than the spouse. Increases the contribution rate for judges from 6

percent to 8 percent. For judges who have contributed for 20 years, the contribution rate increases from 0 percent to 4 percent. Sitting judges must opt in after a 90-day period to receive benefits and pay higher contribution rates.

Operative date, July 1, 2004

Bills related to state government

LB 1097: State Employee Retirement Plan. Establishes additional investment options for contributions made by state

employees who did not elect to participate in the cash balance plan. For these state employees, employer matching contributions are currently restricted by law to three investment options: employer conservative fund, employer moderate fund, and employer aggressive fund. LB 1097 expands the options so they are now the same as those available under the employee account, e.g., stable fund, money market fund, S & P 500 stock index, small company stock fund, etc.

Effective date, July 16, 2004 ❖

Court reporter at hearings

Attorneys are reminded that a court reporter is required at all evidentiary hearings. Rule 9 of the Workers' Compensation Court Rules of Procedure provides that "The employer or, if insured, the employer's insurance carrier shall furnish a court reporter to be present and report or, by adequate mechanical means, to record and, if necessary, transcribe proceedings of any hearing . . . The reporter shall faithfully and accurately report or record the proceedings." The Nebraska Supreme Court addressed the necessity of a court reporter in Borley Storage & Transfer Co. v. Whitted, 265 Neb. 533, 657 N.W.2d 9111 (2003). In that case, the Court quoted Neb.Ct.R. of

Prac. 5A(1) (rev.2000) as follows: "[T]he official court reporter shall in all instances make a verbatim record of the evidence offered at trial or other evidentiary proceeding, including but not limited to objections to any evidence and rulings thereon, oral motions, and stipulations by the parties. This record may not be waived." The Court went on to state that "All evidentiary proceedings require the presence of a court reporter who shall make a verbatim record of the proceedings, and such recording may not be waived by the court or the parties." Hogan v. Garden County, 264 Neb. 115, 646 N.W.2d 257 (2002). ❖

Court adopts rule amendments

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tion of employer, insurer, or risk management pool acceptance of a vocational rehabilitation plan and agreement to pay temporary disability benefits during the plan.

The judges decided not to adopt new provisions for hospitals and ambulatory surgical centers, that would have limited

payment for durable medical equipment, devices, implantables, and supplies. The judges also declined to adopt a new fee schedule for non-hospital durable medical equipment, devices, implantables, and supplies. Finally, the judges rejected a proposed new fee schedule for non-hospital prescription medication and drugs. ❖

Claims search database available to assist trading partners with mandatory electronic filing of subsequent reports

A claims search database is available to assist the court's trading partners with the recently mandated electronic filing of subsequent reports.

The court's Rule 30, Subsequent Report, provides for mandatory electronic filing of subsequent reports beginning no later than October 1, 2004. In the alternative, an implementation plan shall be approved by the court no later than October 1, 2004.

Trading partners can use the claims search database to obtain basic claims information required for filing accurate subsequent reports.

For example, if a trading partner is preparing to file a subsequent report and doesn't know the agency claim number, an approved user can search for the first report filed on the case, which will include the assigned agency claim number.

To become approved for access to the database, trading partners must complete and submit a new trading partner profile and database user profile. Both of these forms may be accessed, completed and submitted electronically from the court's Web site (<http://www.nol.org/workcomp/edi/guardian.htm>).

Once the court receives and verifies this information, authorization will be granted for assigned users. The court will then provide the trading partner business contact with all necessary identification numbers, passwords and instructions for using the database.

The court's claims search database is an application maintained within *Guardian*, a secure extranet Web site developed by the State of Nebraska's Information Management Services.

EDI Initiative

Since 1997, the court's Electronic Data Interchange (EDI) Initiative has al-

lowed employers, insurers, and others to file certain forms with the court in an electronic format as opposed to sending these forms through the mail.

At the time of publication, 99.9 percent of all first reports and 67.4 percent of all subsequent reports are filed electronically. The court will eventually receive proof of insurance coverage and other reports in an electronic format. The benefits of EDI include:

1. Reduced typographical errors, computational errors, misinterpretations, and omissions.
2. Reduced costs for paper and forms, postage and express mail, faxing.
3. Faster document exchange/turn-around time.
4. Reduced inventory.
5. Reduced processing costs.
6. Increased employee efficiency.

7. Benchmarking among jurisdictions using a central data repository for statistical analysis.

New EDI Advisory

Court staff have compiled a new EDI Advisory which will include amendments to the court's First Report of Injury and Subsequent Report of Injury Implementation Guides.

For more information, visit our Web site's EDI page (<http://www.nol.org/workcomp/edi/edi.htm>). This page has a link from which visitors can subscribe to receive automatic email notice of upcoming EDI Advisories. ❖



Maximum income benefit and mileage reimbursement rate have increased

Effective January 1, 2004, the **maximum weekly income benefit** under the Nebraska Workers' Compensation Act has increased to \$562.00. This amount applies to work-related injuries and illnesses occurring on or after January 1, 2004. This amount equals 100 percent of the state average weekly wage as determined by the Nebraska Workers' Compensation Court. The maximum is set according to a statutory formula.

The previous maximum weekly income benefit levels will continue to apply to work-related injuries and illnesses occurring during their ef-

fective dates. The minimum weekly income benefit remains at \$49.00.

Effective January 1, 2004, the **mileage reimbursement rate** has increased to 37.5¢ per mile for travel to seek medical treatment or while participating in a vocational rehabilitation plan. This conforms to the reimbursement rate paid to State of Nebraska employees.

For more information, please call the court's toll-free information line at 800-599-5155 or 402-471-6468. The court's Web site (<http://www.nol.org/workcomp/>) also contains information regarding the court's operations. ❖

Vocational rehabilitation update

Robert H. Anderson, Ph.D. joined the court as a Vocational Rehabilitation Specialist on April 5, 2004. Dr. Anderson has more than 25 years of experience in the area of vocational evaluation, rehabilitation, counseling, and testing.

He was among the very first counselors and job placement specialists certified by the court in January 1994 and continued to provide services and Loss of Earning Power analyses until joining the court.

Dr. Anderson has served as a Staff Psychologist at the University of Nebraska Medical Center and, since 1986, has served as an adjunct faculty member in the Department of Psychology at the University of Nebraska, Omaha offering courses such as Personnel Psychology and Behavior Analysis and Interventions.

As a court specialist, Dr. Anderson will be responsible for cases in the

Kearney, Grand Island, Norfolk, and Scottsbluff areas.

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The informational meetings between vocational rehabilitation counselors and court staff continue to be held monthly. Progress has been made on a number of issues: testing; grade and class schedule procedures; expectations and methods for resolving conflicts related to a court specialist's request for information; ethical issues involving plans to which an employee does not agree, revisions to the court's Ethical Standards and Responsibilities statement, and the requirements of the statutes and rules of the court.

After each meeting an outcomes memo is distributed electronically to certified vocational rehabilitation counselors for whom the court has either an email address or fax number.

Counselors who have not received the notices may provide their email and fax information to Kris Peterson, Vocational Rehabilitation Manager, by email (krisp@wcc.state.ne.us) or fax (402-471-2700).

The outcomes are discussed as the first agenda item at the next meeting for clarification, correction, or change. Kris can also provide information about future meeting dates and times. ❖

Trials set for "day certain"

Any time the Nebraska Workers' Compensation Court sets a trial for "day certain," the trial will proceed as scheduled on that date. No continuances may be granted. ❖

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